Remarks

The Office Action dated September 17, 2004, indicated that the Applicant was required under 35 USC 121 to elect a single disclosed species for prosecution on the merits. The Examiner further indicated during a telephone conversation on August 25, 2004, a provisional election was made to prosecute the invention of species 2 which contains claims 1-18 and 20-31. Affirmation of this provisional election is hereby entered. It is noted that claim 19 is dependent on claim 15, thereby making claim 19 allowable along with claim 15 as pointed out herein.

The Office Action rejected claims 1-3, 6, 9-13, 21, 22 and 26 under 35 USC 102(b) as being anticipated by U.S. Patent 5,522,437 to Blackburn. Claim 14 was rejected as obvious from Blackburn. Claims 5, 4, 8, 15-18 and 20 were rejected as being obvious under 35 USC 103(a) over Blackburn in view of U.S. 5,540,264 to Harp. Claims 7, 23-25, 27, 28, 30 and 31 were rejected as being obvious under 35 USC 103(a) over Blackburn in view of U.S. Patent 5269354 to Koburg. Finally, claim 29 was rejected under 35 USC 103(a) as being obvious over Blackburn in view of Harp and in view of Koburg.

Applicant's invention provides an assembly 10 for collecting residual motor oil from plastic motor oil containers 40 and includes a housing 12 and a base support unit 24 (page 5, lines 8-10, Figures 1-4). The housing 12 is preferably constructed of injection-molded plastic and has inlets 14 sized and shaped to receive the spouts of motor oil containers (Page 6, lines 9-13, Figures 1-4). The inlets 14 connect to drainage shafts 30 and include inlet tapers 34, which provide a snug fit with the spout of an oil container 40 (Page 5, lines 13-15, Figures 1-4). The housing has a main drainage shaft 26 with a snug fit removable cap 20 (page 5, lines 16-21, Figures 1-4). The bottom of the main drainage shaft 26 is sized to fit snugly within the oil collection unit 42. (Page 7, lines 1-4, Figures 1-4). When the assembly has motor oil containers in place, securely in a collecting unit and with the removable cap snugly in place, the system is substantially closed, permitting oil to be collected without contaminants (Page 7, lines 8-15). The assembly is also designed to have additional identical assemblies stacked together. With each assembly that is stacked, an additional two motor oil containers may be drained of residual oil (Page 7, lines 23-25). The assembly further includes a base to support the collection assembly (Page 6, lines 1-5).

The Blackburn reference discloses an oil recovery system comprising a collection container 16, a cover 14 that is removably affixed to the container, and an elongated tubular member 12 that is connected to the cover and contains a number of collection ports 20 adapted to receive oil containers. Blackburn suggest to those of ordinary skill in the art that the cover 14, member 12 and ports 20 are all one integral item, as shown in the drawings of Blackburn. Seventeen ports are included in the one item. The conduit stands erect when the cover is attached to the collecting container. The collecting ports are spaced up and down the conduit on approximately 50% of the surface of the conduit (column 2, lines 5-8). The remaining 50% of the conduit is without appendage, therefore allowing the invention to be placed proximate a wall or other vertical surface (column 2, lines 5-9). The collecting system may be formed from metal or plastic. Referring to Figures 1-3, the central conduit 12 is optimally, approximately 2 inches in diameter with collecting ports 1 ½ inches in diameter, set at an angle of 45 degrees to the central conduit 12, with the collectors 22, four inches in length, spaced approximately six inches apart (column 2, lines 57-60).

The Koberg reference provides a device for recovering oil from a plurality of open mouth containers, comprising a funnel having a plurality of openings at its upper end and an outlet port at its lower end. The outlet port is defined by the lower portion. The port has a set of threads capable of removably receiving having mating threads (column 1, lines 60-64).. Referring to Figure 1, the upper portion of the device 16 defines a funnel 14 having generally vertical front and back walls 17 and 18, and inward sloping sidewalls 19. At its lower portion, the funnel 14 has an outlet port 20, through which fluid can drain. The port 20 has a set of internal threads which enables a container 12 having an external threads to be removeably attached to the port 20. The top portion 26 of the funnel 14 is a generally flat, elongated member, attached or formed with the funnel 14 as part of the device 10. The top portion 26 has a plurality of openings 28 which permit fluid to drain into the funnel 14. Surrounding each opening 28 and extending from the top portion 26 is a retaining member comprising a raised generally circular ring 30. the inner circumference 32 is sized to receive by a pressure fit, a standard size neck of the container 12 (column 3, lines 0-20). Referring to

Figures 1 and 2, the detachable cap 50 is sized to pressure fit over the outer circumference 34 as indicated in Figure 2 (column 3, lines 47-50). The cap 50 is employed to prevent dirt, dust, or other contaminants from entering the openings 28, which might otherwise enter the funnel and contaminate the oil (column 3, lines 57-58, Figure 2). The device is preferably made of molded plastic but other substitutes may be used, such as metal, ceramic, wood, seal paper, cardboard, or the like (column 4, lines 10-15). The device can also incorporate a valve assembly for preventing the flow of fluid out of the outlet port 20 when removed (Figures 1 and 2)(lines 16-19).

The primary reference, Blackburn, which is the basis of the 35 USC 102(b) rejection, is distinguishable from Applicant's device in a critical aspect. Applicant's device is a substantially closed system which provides for the collection of contaminate-free residual motor oil. The Blackburn reference is not a closed system and does not collect residual motor oil which is contaminate-free. A careful review of the Blackburn reference yields no discussion or provision for collection of contaminate-free motor oil. The objectives of Blackburn's invention (column 2, lines 12-31) are silent with respect to contaminate-free collection, as are the claims and specification. Applicant's invention clearly specifies that feature throughout the application. Claim 1 of Applicant's invention clearly provides for a substantially closed system in contrast to the Blackburn reference.

The Blackburn, Koberg, and Harp references are also distinguishable from Applicant's device in another critical aspect. Applicant's devices provide the ultimate consumer with the ability to selectively increase the number of oil containers which can be simultaneously drained of oil (Claim 31). Assembly units may be stacked to increase the number of oil containers which can be drained in a contaminate-free environment. The Blackburn, Koberg and Harp devices are manufactured to provide for drainage of a fixed number of oil containers (Blackburn- Fig. 1, Koberg- Fig. 1). The ultimate consumer lacks the flexibility to place units together to increase the number of oil containers for collection. Neither Blackburn, Koberg, nor Harp mention a way that their devices can provide for additional oil containers to be added for collection by placing multiple units together. The consumer is limited to drainage of oil containers by the fixed number provided in each reference.

By this amendment Applicant has placed the case in condition for immediate allowance and such action is respectfully requested. However, if any issue remains unresolved, Applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,

Howard A. MacCord, Jr.
Registration No. 28,639
MacCord Mason PLLC
P. O. Box 2974
Greensboro, NC 27402
(336) 273-4422

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